
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

ADRIANA GOMEZ-RAMIRO, #21152-078	§	
	§	
<i>versus</i>	§	CIVIL ACTION NO. 4:16-CV-623
	§	CRIMINAL ACTION NO. 4:13-CR-156(2)
UNITED STATES OF AMERICA	§	

ORDER OF DISMISSAL

The above-entitled and numbered civil action was referred to United States Magistrate Judge Kimberly C. Priest Johnson, who issued a Report and Recommendation (#9) concluding that the Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody filed pursuant to 28 U.S.C. § 2255 should be denied and dismissed with prejudice as it is barred by the AEDPA limitations period. Movant filed what is construed as objections (#13).


In Movant's objections, she reurges the issues raised in her § 2255 motion, and argues for equitably tolling. Specifically, Movant claims her facility was regularly locked down and she was denied access to the law library during these times. She fails to outline the dates she was prevented from visiting the law library. Movant also claims her facility had gas leaks, which caused various medical maladies, such as nausea and headaches. Movant does not claim to have suffered from these maladies. To show entitlement to equitable tolling, Movant must specifically show how these asserted conditions caused her to file her petition more than three months beyond the limitations deadline. The Fifth Circuit has held the district court has the power to equitably toll the limitations period only in "extraordinary circumstances." *Cantu-Tzin v. Johnson*, 162 F.3d 295, 299 (5th Cir.1998). To obtain the benefit of equitable tolling, Movant must also establish she pursued habeas relief with "reasonable diligence." *Palacios v. Stephens*, 723 F.3d 600, 604 (5th Cir. 2013); *Holland v. Florida*, 560 U.S. 631, 653 (2010). Movant fails to show extraordinary circumstances or reasonable diligence.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and Petitioner's objections are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court.

It is accordingly **ORDERED** that Movant's Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (#1) pursuant to 28 U.S.C. § 2255 is **DENIED** and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. All motions by either party not previously ruled upon are **DENIED**.

Signed this date

Jul 16, 2019

A handwritten signature in black ink, reading "Marcia A. Crone", written in a cursive style.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE